

COPY

277K

Re: ...

NEW HAMPSHIRE LAW LIBRARY

October 1, 1954

SEP 22 1998

CONCORD, N.H.

Parker Hancock, Warden
State Prison
Concord, New Hampshire

Dear Parker:

You have inquired in your letter of September 24 concerning your right to transfer unmanageable prisoners, male or female, in light of the provision contained in the Appropriation Act, L. 1953, c. 249, p. 437, "custody of certain inmates". Your request for an opinion in this matter does not concern itself with minors and therefore no question involving the Industrial School is included, as I understand it.

It is my opinion that the law of New Hampshire prescribes the State Prison as the general penitentiary of the State for the punishment and reformation of criminals sentenced to confinement at hard labor or solitary confinement. (R.L., c. 464, s. 1) This statute extends to both male and female prisoners.

However, certain other statutory provisions (R.L., c. 464, ss. 34-37) do permit the trustees of the State Prison to make arrangements to transfer female convicts to institutions in other states, either state or federal, having suitable facilities for their confinement. Nothing in these sections, to my knowledge, indicates legislative contemplation that a lesser penal institution within the State of New Hampshire was authorized to be included within said contracting transfer powers vested in the board.

I am aware of the fact that the State Prison has not kept female prisoners since 1941 and has no facilities at the present time for keeping them. Nevertheless, it is impossible for me by opinion to provide authority tantamount to legislation. The answer to your problem, if no other out-of-state institution is willing to keep incorrigible female convicts transferred to it by contract, lies in an appeal to the next session of the General Court for appropriate amendatory legislation.

With every good wish.

Sincerely,

Attorney General